

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 443

Introduced by Senator Pavley

February 26, 2009

An act to amend Sections 25251 and 25252.5 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 443, as amended, Pavley. ~~Public health: hazardous materials. Supermarkets: cleaning products: risk assessment.~~

Existing law regulates environmental health issues, including food, drugs, occupational safety, and consumer products.

This bill would require the Office of Environmental Health Hazard Assessment (OEHHA) to conduct screening-level risk assessments, as defined, that evaluate the potential harm to the public, supermarket employees, custodial staff, and the environment from cleaning products that are used to clean supermarkets. This bill would require, when an assessment is being performed, a supermarket and a manufacturer of a cleaning product to provide specified information regarding cleaning products to the OEHHA upon request. The bill would require the OEHHA to compile a report, by December 31, 2011, of the results of the assessments.

~~Existing law establishes the Department of Toxic Substances Control, in the California Environmental Protection Agency, with powers and duties regarding, among other things, hazardous waste disposal, underground storage of hazardous substances and waste, and the handling and release of hazardous materials.~~

~~Existing law requires the department by January 1, 2011, to adopt regulations to establish a process by which chemicals or chemical~~

~~ingredients in consumer products, as defined, may be identified and prioritized for consideration as being chemicals of concern. Existing law also specifies a procedure for the adoption of those regulations, including requiring that the department, in adopting those regulations, prepare a multimedia life cycle evaluation that addresses the impacts associated with, among other things, worker safety and impacts to public health. It also requires the department to adopt, by January 1, 2011, regulations to establish a process by which chemicals of concern in consumer products, and their potential alternatives, are evaluated to determine how best to limit exposure or to reduce the level of hazard posed by a chemical of concern.~~

~~This bill would specify that consumer products for these purposes include cleaning products used in food facilities and that worker safety for these purposes includes food facility worker safety.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(a) The potential health and safety hazards related to the use*
- 4 *of corrosive and hazardous chemicals currently used for purposes*
- 5 *of cleaning a supermarket, where both packaged and open food*
- 6 *products and fresh produce are stored and displayed, is an urgent*
- 7 *concern that needs to be evaluated and understood as soon as*
- 8 *possible so that the state may take action to prevent public hazards*
- 9 *in a timely manner.*
- 10 *(b) Some of the chemicals commonly used in supermarket*
- 11 *cleaning products are known to cause serious human health*
- 12 *problems. For example, 2-Butoxyethanol, a carcinogen that causes*
- 13 *reproductive damage and liver and kidney damage, and can break*
- 14 *down red blood cells, is an active ingredient in some supermarket*
- 15 *cleaning products.*
- 16 *(c) The California Environmental Protection Agency's Office*
- 17 *of Environmental Health Hazard Assessment (OEHHA), conducts*
- 18 *health screening assessments of chemicals that could be of concern,*
- 19 *and is already conducting studies to evaluate chemical emissions*
- 20 *in some products used by the state at the request of the Department*
- 21 *of General Services.*

1 (d) Given OEHHA's overall mission to protect and enhance
2 public health and the environment by scientific evaluation of risks
3 posed by hazardous substances, these evaluations are within
4 OEHHA's mandates.

5 (e) The Legislature has declared in Section 113705 of the Health
6 and Safety Code, "[t]hat the public health interest requires that
7 there be uniform statewide health and sanitation standards for
8 retail food facilities to assure the people of this state that the food
9 will be pure, safe, and unadulterated."

10 SEC. 2. (a) For purposes of this section, the following
11 definitions shall apply:

12 (1) "Office" means the Office of Environmental Health Hazard
13 Assessment.

14 (2) "Screening-level risk assessment" or "assessment" means
15 an in depth analysis of a substance to determine whether the
16 substance is toxic or capable of becoming toxic. An assessment
17 shall include an evaluation of any known environmental
18 concentrations of a substance, as well as predictions of
19 environmental concentrations of the substance from releases
20 resulting from its production, processing, uses, and disposal, and
21 its environmental fate evaluated on the basis of intrinsic physical
22 and chemical properties, environmental mobility, and persistence.

23 (3) "Supermarket" has the same meaning as defined in Section
24 14526.5 of the Public Resources Code.

25 (b) During the 2010 calendar year, the office shall conduct
26 screening-level risk assessments that will evaluate the potential
27 harm to the public, supermarket employees, custodial workers,
28 and the environment that may be in contact with a chemical or
29 chemical product used for purposes of cleaning a supermarket. In
30 particular, the assessments shall evaluate the effects of the
31 chemicals or chemical products on food safety for consumers and
32 air toxicity levels.

33 (c) For purposes of assisting the office to conduct the assessment
34 required by subdivision (b), and upon the request of the office:

35 (1) A supermarket shall provide the office with a list of cleaning
36 products used at the supermarket.

37 (2) A manufacturer of a cleaning product shall provide the office
38 with information regarding the formulation of the cleaning product
39 and any other information required to conduct the assessment.
40 The office shall treat all information provided by a manufacturer

1 as confidential and the information shall be exempt from disclosure
2 under the California Public Records Act (Chapter 3.5 (commencing
3 with Section 6250) of Division 7 of Title 1) of the Government
4 Code.

5 (d) The results of each assessment required by subdivision (b),
6 shall be published in a report that the office shall make publicly
7 available and provide to a supermarket whose cleaning products
8 have been evaluated. The office shall complete a draft of the report
9 on or before July 1, 2011, and submit the draft report to the
10 Environmental Policy Council for review and comment. The office
11 shall also make the draft report available on its Internet Web site
12 for purposes of public comment. The office shall issue the final
13 report on or before December 31, 2011. The report shall do both
14 of the following:

15 (1) Include recommendations regarding methods to mitigate
16 any potential hazards posed by chemicals and chemical products,
17 and possible alternative products for use by a supermarket that
18 will maintain public health standards for sanitation and also
19 protect consumers, supermarket employees, custodial workers,
20 and the environment for any toxic or hazardous exposures.

21 (2) Identify data gaps on ingredients and formulations of
22 supermarket cleaning products.

23 ~~SECTION 1. The first Section 25251 of the Health and Safety~~
24 ~~Code, as added by Section 1 of Chapter 560 of the Statutes of~~
25 ~~2008, is amended to read:~~

26 ~~25251. For purposes of this article, the following definitions~~
27 ~~shall apply:~~

28 (a) ~~“Clearinghouse” means the Toxics Information~~
29 ~~Clearinghouse established pursuant to Section 25256.~~

30 (b) ~~“Council” means the California Environmental Policy~~
31 ~~Council established pursuant to subdivision (b) of Section 71017~~
32 ~~of the Public Resources Code.~~

33 (c) ~~“Office” means Office of Environmental Health Hazard~~
34 ~~Assessment.~~

35 (d) ~~“Panel” means the Green Ribbon Science Panel established~~
36 ~~pursuant to Section 25254.~~

37 (e) ~~“Consumer product” means a product or part of the product~~
38 ~~that is used, brought, or leased for use by a person for any purposes,~~
39 ~~including cleaning products used in food facilities. “Consumer~~
40 ~~product” does not include any of the following:~~

1 ~~(1) A dangerous drug or dangerous device as defined in Section~~
2 ~~4022 of the Business of Professions Code.~~

3 ~~(2) Dental restorative materials as defined in subdivision (b) of~~
4 ~~Section 1648.20 of the Business and Professions Code.~~

5 ~~(3) A device as defined in Section 4023 of the Business of~~
6 ~~Professions Code.~~

7 ~~(4) A food as defined in subdivision (a) of Section 109935.~~

8 ~~(5) The packaging associated with any of the items specified in~~
9 ~~paragraph (1), (2), or (3).~~

10 ~~(6) A pesticide as defined in Section 12753 of the Food and~~
11 ~~Agricultural Code or the Federal Insecticide, Fungicide and~~
12 ~~Rodenticide Act (7 U.S.C. Sec. 136 and following).~~

13 ~~(7) Mercury-containing lights defined as mercury-containing~~
14 ~~lamps, bulbs, tubes, or other electric devices that provide functional~~
15 ~~illumination.~~

16 ~~(f) This section shall remain in effect only until December 31,~~
17 ~~2011, and as of that date is repealed, unless a later enacted statute,~~
18 ~~that is enacted before December 31, 2011, deletes or extends that~~
19 ~~date.~~

20 ~~SEC. 2. The second Section 25251 of the Health and Safety~~
21 ~~Code, as added by Section 1 of Chapter 560 of the Statutes of~~
22 ~~2008, is amended to read:~~

23 ~~25251. For purposes of this article, the following definitions~~
24 ~~shall apply:~~

25 ~~(a) "Clearinghouse" means the Toxics Information~~
26 ~~Clearinghouse established pursuant to Section 25256.~~

27 ~~(b) "Council" means the California Environmental Policy~~
28 ~~Council established pursuant to subdivision (b) of Section 71017~~
29 ~~of the Public Resources Code.~~

30 ~~(c) "Office" means Office of Environmental Health Hazard~~
31 ~~Assessment.~~

32 ~~(d) "Panel" means the Green Ribbon Science Panel established~~
33 ~~pursuant to Section 25254.~~

34 ~~(e) "Consumer product" means a product or part of the product~~
35 ~~that is used, brought, or leased for use by a person for any purposes,~~
36 ~~including cleaning products used in food facilities. "Consumer~~
37 ~~product" does not include any of the following:~~

38 ~~(1) A dangerous drug or dangerous device as defined in Section~~
39 ~~4022 of the Business of Professions Code.~~

~~(2) Dental restorative materials as defined in subdivision (b) of Section 1648.20 of the Business and Professions Code.~~

~~(3) A device as defined in Section 4023 of the Business of Professions Code.~~

~~(4) A food as defined in subdivision (a) of Section 109935.~~

~~(5) The packaging associated with any of the items specified in paragraph (1), (2), or (3).~~

~~(6) A pesticide as defined in Section 12753 of the Food and Agricultural Code or the Federal Insecticide, Fungicide and Rodenticide (7 United States Code Sections 136 and following).~~

~~(f) This section shall become effective on January 1, 2012.~~

~~SEC. 3. Section 25252.5 of the Health and Safety Code is amended to read:~~

~~25252.5. (a) Except as provided in subdivision (f), the department, in adopting the regulations pursuant to Sections 25252 and 25253, shall prepare a multimedia life cycle evaluation conducted by affected agencies and coordinated by the department, and shall submit the regulations and the multimedia life cycle evaluation to the council for review.~~

~~(b) The multimedia evaluation shall be based on the best available scientific data, written comments submitted by interested persons, and information collected by the department in preparation for adopting the regulations, and shall address, but is not limited to, the impacts associated with all the following:~~

~~(1) Emissions of air pollutants, including ozone forming compounds, particulate matter, toxic air contaminants, and greenhouse gases.~~

~~(2) Contamination of surface water, groundwater, and soil.~~

~~(3) Disposal or use of the byproducts and waste materials.~~

~~(4) Worker safety, including food facility worker safety, and impacts to public health.~~

~~(5) Other anticipated impacts to the environment.~~

~~(c) The council shall complete its review of the multimedia evaluation within 90 calendar days following notice from the department that it intends to adopt regulations. If the council determines that the proposed regulations will cause a significant adverse impact on the public health or the environment, or that alternatives exist that would be less adverse, the council shall recommend alternative measures that the department or other state agencies may take to reduce the adverse impact on public health~~

1 or the environment. The council shall make all information relating
2 to its review available to the public.

3 ~~(d) Within 60 days of receiving notification from the council~~
4 ~~of a determination of significant adverse impact, the department~~
5 ~~shall adopt revisions to the proposed regulation to avoid or reduce~~
6 ~~the adverse impact, or the affected agencies shall take appropriate~~
7 ~~action that will, to the extent feasible, mitigate the adverse impact~~
8 ~~so that, on balance, there is no significant adverse impact on public~~
9 ~~health or the environment.~~

10 ~~(e) In coordinating a multimedia evaluation pursuant to~~
11 ~~subdivision (a), the department shall consult with other boards and~~
12 ~~departments within the California Environmental Protection~~
13 ~~Agency, the State Department of Public Health, the State and~~
14 ~~Consumer Services Agency, the Department of Homeland Security,~~
15 ~~the Department of Industrial Relations, and other state agencies~~
16 ~~with responsibility for, or expertise regarding, impacts that could~~
17 ~~result from the production, use, or disposal of consumer products~~
18 ~~and the ingredients they may contain.~~

19 ~~(f) Notwithstanding subdivision (a), the department may adopt~~
20 ~~regulations pursuant to Sections 25252 and 25253 without~~
21 ~~subjecting the proposed regulation to a multimedia evaluation if~~
22 ~~the council, following an initial evaluation of the proposed~~
23 ~~regulation, conclusively determines that the regulation will not~~
24 ~~have any significant adverse impact on public health or the~~
25 ~~environment.~~

26 ~~(g) For the purposes of this section, “multimedia life cycle~~
27 ~~evaluation” means the identification and evaluation of a significant~~
28 ~~adverse impact on public health or the environment, including air,~~
29 ~~water, or soil, that may result from the production, use, or disposal~~
30 ~~of a consumer product or consumer product ingredient.~~